

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JAMES COLLIER, <i>et al.</i>)	CASE NO.
)	
Plaintiff,)	JUDGE
)	
vs.)	
)	
NVR MORTGAGE FINANCE, INC. <i>et al.</i>)	<u>NOTICE OF REMOVAL</u>
)	
Defendants.)	

Defendants NVR, Inc. (“Ryan Homes”) and NVR Mortgage Finance, Inc. (“NVR Mortgage”) (collectively “Defendants”), by and through counsel, hereby notify the Court of the following:

1. Defendants are the named defendants in the Cuyahoga County Court of Common Pleas action captioned *James and Vanessa Collier and Robert and Mary Potts v. NVR Mortgage Finance, Inc. and NVR, Inc.*, Common Pleas Case No. CV-11-766556. A copy of the Summons and Complaint is attached hereto as Exhibit A. To the best of Defendants’ knowledge, the attached documents constitute all process, pleadings, notices and orders which have been filed or entered in said case to date.

2. Without admitting any facts alleged in the Complaint or that the Complaint states any claim for relief, Plaintiffs purport to bring a common-law fraud claim against Defendants for alleged fraudulent misrepresentations and omissions in connection with certain residential purchase transactions that took place in April and May of 2007.

3. Defendants are entitled to remove this action to this Court pursuant to 28 U.S.C. §§1332 and 1441 because there is complete diversity between the parties: Plaintiffs are Ohio residents; Defendant Ryan Homes is a Virginia corporation with its principal place of business in the State of Virginia; and Defendant NVR Mortgage is a Virginia corporation with its principal place of business in the State of Virginia.

4. Plaintiffs allege that they were fraudulently induced to purchase their residences. Complaint, ¶8. Plaintiffs James and Vanessa Collier paid \$295,740.00 to Ryan Homes for the purchase of their newly-constructed residence. Plaintiffs Robert and Mary Ann Potts paid \$266,140.00 to Ryan Homes for the purchase of their newly-constructed residence. Plaintiffs allege that, as a result of the alleged misrepresentations of the Defendants, Plaintiffs have incurred “an inability to pay for their home.” Complaint, ¶10. In addition to the cost of their homes, Plaintiffs further seek to recover additional unspecified damage, damages for emotional distress, punitive damages, and attorneys’ fees. *See* Complaint, ¶¶10, 11, Prayer.

5. Based on the foregoing allegations, and in light of the damages that are being sought in the Complaint, the amount in controversy exceeds, either in the aggregate or with respect to each transaction, the sum of \$75,000.00, exclusive of interest and costs.

6. Removal is timely. Defendant Ryan Homes was served with the Summons and Complaint on October 28, 2011; Defendant NVR Mortgage was served with the Summons and Complaint on October 24, 2011.

7. Written notice of the filing of this Notice of Removal shall be filed with the Clerk of Courts of the Cuyahoga County Court of Common Pleas and served on all parties pursuant to the provisions of 28 U.S.C. § 1446(d).

8. Defendants reserve, without admission or waiver of any allegations and/or claims, all of its defenses to Plaintiffs' Complaint. Nothing set forth herein shall be construed as a waiver or admission of any allegations or claims.

Respectfully submitted,

s/ David D. Yeagley

David D. Yeagley (0042433)

ULMER & BERNE LLP

Skylight Office Tower

1660 West 2nd Street, Suite 1100

Cleveland, Ohio 44113

(216) 583-7000 – (Tel.)

(216) 583-7001 – (Fax)

dyeagley@ulmer.com

Attorney for Defendants

NVR Mortgage Finance, Inc. and

NVR, Inc.

CERTIFICATE OF SERVICE

A copy of the foregoing Notice of Removal was served this 31st day of October, 2011,
via regular U.S. mail, postage prepaid, upon the following:

William J. Novak
Scott D. Perlmutter
Novak, Robenalt & Pavlik, L.L.P.
Tower City Center
Skylight Office Tower
1660 West Second Street, #950
Cleveland, Ohio 44113

Attorney for Plaintiffs

s/ David D. Yeagley
Attorney for Defendants

1930602